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THE
T R I A L
OF
DANIEL ISAAC EATON,
FOR
PUBLISHING A SUPPOSED LIBEL,
INTITULED
POLITICS FOR THE PEOPLE;
OR,
H O G ' s W A S H :

AT JUSTICE HALL IN THE OLD BAILEY,
February Twenty-Fourth, 1794.

L O N D O N :

PUBLISHED BY THE DEFENDANT,
DANIEL ISAAC EATON, No. 74, NEWGATE-
STREET;

And sold by H. D. SYMONDS, Paternoster-Row; CLIO
RICKMAN, Great Mary-le-Bone-Street; T. W. HAW-
KINS, Borough; J. RIDGWAY, York-Street, St. James's
Square; T. GALE, Sheffield; R. PHILIPS, Leicester;
BENJAMIN FLOWER, Cambridge; Messrs. BERRY and
ROBINSON, Edinburgh; and Messrs. MASH and READ,
Glasgow.

[PRICE ONE SHILLING.]

[ENTERED AT STATIONERS HALL.]

THE

TURKISH

DANIEL ISAAC BAYON

PRINTED BY THE

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HOUSE OF

AT THE

PRINTING OFFICE

LONDON

PRINTED BY THE

DANIEL ISAAC BAYON

PRINTED

AND SOLD BY THE

PRINTERS

AND

BOOKSELLERS

IN THE

STREET

THE KING
AGAINST
DANIEL ISAAC EATON.

INDICTMENT.

LONDON. At the General Sessions of Oyer and Terminer of our Lord the King, holden for the City of London, at Justice Hall, in the Old Bailey, within the Parish of Saint Sepulchre, in the Ward of Farringdon Without, in London aforesaid, on Wednesday the Fourth Day of December, in the Thirty-fourth Year of the Reign of our Sovereign Lord George the Third, King of Great Britain, &c.

LONDON } THE Jurors for our Lord the King, up-
TO WIT. } on their Oath present, That DANIEL
ISAAC EATON, late of LONDON, Bookfeller, being
*a malicious, seditious, and evil-disposed Person, and greatly
disaffected to our said Lord the King, and to his Adminis-
tration of Government of this Kingdom, and unlawfully,
maliciously, and seditiously contriving, devising, and intending
to scandalize, traduce, and vilify, our said Lord the King,
and the regal Power and Office established by Law within
this Realm, and to represent our said Lord the King as san-
guinary, tyrannical, oppressor, cruel, and despotic; and there-
by to stir up and excite Discontents and Seditions amongst the
Subjects of our said Lord the King, and to alienate and
withdraw the Fidelity, Affection, and Allegiance, of His said
Majesty's Subjects from His said Majesty's Person and Go-
vernment, on the Eighteenth Day of November, in the
Year of our Lord One Thousand Seven Hundred and
Ninety-three, at London aforesaid, in the Parish of St.*

Mary-le-Bow, in the Ward of Cheap, *unlawfully, maliciously, and seditiously* did publish, and cause to be published a certain Pamphlet, intitled, "POLITICS FOR THE PEOPLE; Or, HOG'S WASH," containing therein, among other Things, certain *scandalous, malicious, inflammatory and seditious* matters, of and concerning our said Lord the King: That is to say,

"You must know then, [*meaning know*] that I used, together with a variety of youthful attachments, to be very fond of birds and poultry; and among other things of this kind I had a very fine majestic kind of animal, a Game cock, [*meaning thereby to denote and represent our said Lord the King*] a haughty, sanguinary tyrant, nursed in blood and slaughter from his infancy, fond of foreign wars and domestic rebellions, into which he would sometimes drive his subjects, by his oppressive obstinacy, in hopes that he might increase his power and glory, by their suppression; now, this haughty old Tyrant [*again meaning our said Lord the King*] would never let my farm-yard be quiet, for not content with devouring, by far, the greater part of the grain that was scattered for the morning and evening repast, and snatching at every little treasure, that the toil of more industrious birds might happen to scratch out of the bowels of the earth, the restless Despot [*meaning our said Lord the King*] must be always picking and cussing at the poor Doves and Pullets, and little defenceless Chickens, so that they could never eat the scanty remnant which his inordinate taxation left them, in peace and quietness: now, though there were some aristocratic prejudices hanging about me from my education, so that I could not help looking with some considerable reverence upon the majestic decorations of the person of King Chaunticlere, [*meaning our said Lord the King*] "such as his ermine spotted breast, the fine gold trappings about his neck and shoulders, the flowing robe of plumage tucked up at his rump, and, above all, that fine ornamented thing about his head there, his Crown or Coxcomb, I believe you call it, (however, the distinction is not very important) yet I had, even at that time, some lurking principles of aversion to bare-faced Despotism struggling at my heart,

"which

" which would sometimes whisper to me, that the best
 " thing one could do, either for cocks and hens, or men
 " and women, was, to rid the world of Tyrants," [*mean-*
ing our said Lord the King, among others] " whose shrill
 " martial clarions (the provocatives to fame and murder)
 " disturbed the repose, and destroyed the happiness of their
 " respective communities; so I believe, if guillotines had
 " been in fashion, I should certainly have guillotined him,
 " being desirous to be merciful even in the stroke of death:
 " and knowing, the instant the brain is separated from the
 " heart (which, with this instrument is done in a mo-
 " ment,) pain and consciousness is at an end, while the
 " lingering torture of the rope may procrastinate the pang
 " for half an hour; however, I managed the business very
 " well, for I caught Mr. Tyrant by the head, and drag-
 " ging him immediately to the block with a heavy knife
 " in my hand, separated his neck at a blow; and what
 " will surprize you very much, when his fine trappings
 " were stripped off, I found he was no better than a com-
 " mon scratch dunghill pullet; no, nor half so good; for
 " he was tough and oily, and rank, with the pollutions of
 " his luxurious vices;" in contempt of our said Lord the
 King, and his Laws, to the evil and pernicious Example
 of all others in the like case offending, and against the Peace
 of our said Lord the King, his Crown, and Dignity.

And the Jurors aforesaid, upon their Oath afore-
 said, do further present, that the said *Daniel Isaac*
Eaton, so being such person as aforesaid, and so devising,
 contriving, and intending, as aforesaid, afterwards to wit,
 on the said eighteenth Day of November, in the said year
 of our Lord One Thousand Seven Hundred and Ninety-
 three, at London aforesaid, in the Parish and Ward afore-
 said, *unlawfully, maliciously, and seditiously*, did publish,
 and cause and procure to be published, a certain other
 printed Pamphlet, containing therein, amongst other
 Things, certain *scandalous, malicious, inflammatory, and*
seditious Matters, of and concerning our said Lord the
 King, according to the Tenor and Effect following; that
 is to say:

" I had a very fine majestic kind of animal, a game
 " cock," [*meaning thereby to denote and represent our said*
Lord

Lord the King] “ a haughty, sanguinary tyrant, nursed in
 “ blood and slaughter, from his infancy ; fond of foreign
 “ wars and domestic rebellions, into which he” [*meaning*
our said Lord the King,] “ would sometimes drive his sub-
 “ jects by his oppressive obstinacy, in hopes that he might
 “ increase his power and glory by their suppression ;” in
 contempt of our said Lord the King, and his Laws, to
 the evil and pernicious example of all others, in the like
 case offending, and against the peace of our said Lord the
 King, his Crown, and Dignity.

And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *Daniel Isaac Eaton*, so being such a person as aforesaid, and so devising, contriving, and intending, as aforesaid, afterwards to wit, on the same eighteenth Day of November, in the said Year of our Lord One Thousand Seven Hundred and Ninety-three, at London aforesaid, in the Parish and Ward aforesaid, *unlawfully, maliciously, and seditiously*, did publish, and cause to be published, a certain other printed Pamphlet, containing therein, among other things, certain *scandalous, malicious, and inflammatory* Matters, of and concerning our Lord the King, among others, according to the Tenor and Effect following : That is to say,

“ THE REFLECTIONS OF A TRUE BRITON.” —
 “ Kings” [*meaning among others our sovereign Lord the King*] “ are wolf shepherds ; Homer stiles them devourers
 “ of the people ; and they do not appear to have lost their
 original taste ;” in contempt of our said Lord the King,
 and his Laws, to the evil and pernicious example of all
 others, in the like Case offending, and against the Peace
 of our said Lord the King, his Crown, and Dignity.

Counsel for the Prosecution.

Mr. FIELDING,
 Mr. KNOWLYS,
 Mr. RAINE.

Solicitor.

Mr. WHITE,
Solicitor to the Treasury.

Counsel for the Defendant.

Mr. FELIX VAUGHAN,
 Mr. GURNEY,
 Mr. WOODHOUSE.

Solicitor.

Mr. BONNEY,
Percy-Street.

ADVER.

ADVERTISEMENT.

THE Indictment was found by the Grand Jury in December Sessions 1793 ; as soon as it was returned into Court, Mr. Knowlys, of Counsel for the Crown, moved Mr. Justice Ashhurst to direct in what Sum the Defendant should be held to Bail ; the Indictment was read, and the Sum named by Mr. Justice Ashhurst was, **THE DEFENDANT HIMSELF IN ONE THOUSAND POUNDS, AND TWO SURETIES IN FIVE HUNDRED POUNDS EACH.** The same Night the Defendant was apprehended and lodged in Newgate, where he lay till the next Session, not being able to procure Bail to so large an amount.

When the Trial was to have come on, Mr. Vaughan was too ill to conduct the Defence ; it therefore devolved on Mr. Gurney.

In January Session the Defendant was put to the Bar, and the Jury were about to be sworn, when the Defendant challenged two of the Jurors peremptorily ; the Recorder disallowed peremptory Challenges, and called upon him to assign a Cause ; the Cause the Defendant assigned was, that those Jurymen had made declarations which rendered them unfit to sit upon a Jury to try a Man charged with having published a Libel. Though the Defendant had no proof of these declarations having been made, Mr. Fielding
very

very liberally consented to allow the Challenges ; the remainder of the Jury having been discharged, the Trial went off for defect of Jurors to February Session, and the Defendant was remanded to Newgate.

As Mr. Gurney had prepared himself to lead the Defence at the January Session, Mr. Vaughan, in Compliment to him, would not resume it afterwards.

SESSIONS,

SESSIONS-HOUSE,
OLD-BAILEY.

FEBRUARY 24, 1794.

DANIEL ISAAC EATON WAS PUT TO THE BAR.

Mr. RECORDER.

I Have ordered the whole pannel to attend, in consequence of the defendant having challenged some of the Jurymen on a former day ; therefore the Jury should be called, not as they have served, but as they stand upon the pannel.

The pannel was called, and the following twelve Gentlemen, being the first who appeared, were sworn :

JURY.

Robert Ryder,	Thomas Nelson,
Thomas Manley,	John Capron,
Joseph Stafford,	John Thomas,
James Chabot,	George Higginbottom,
William Hopkins,	John Farmer,
James Alex. Dixwell,	Joseph Harris.

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The Indictment was read at length by the Clerk of Arraignment, at the desire of the Counsel for the defendant.

The Indictment was opened by Mr. Raine.

Mr. FIELDING.

Gentlemen of the Jury,

Your attention, as a Jury of the City of London, is called to another prosecution for the publication of a mischievous and seditious Libel. I say another, for true it is there have been lately many prosecutions for offences of this description, and unless it be that your servants, the servants of the public in responsible situations in Government, and particularly that servant of the public, the Attorney-General, should be remiss where he ought to be active, should be sluggish where he ought to be alert, or be asleep when he ought to be awake, prosecutions of this nature must come before you. When they do come before you, they come before the tribunal best calculated to determine upon every thing that such a prosecution imputes, and before the tribunal best calculated to determine upon the innocence or guilt of the accused.

Gentlemen, I take upon me to assure myself, that you are all well aware of the nature and extent of the duty you are now exercising. There have been agitations lately about the power of a Jury, and the interposition of a Court; the differences always seemed to me extremely trifling; but now there is no kind of hesitation as to the extent of the proper province of a Jury upon such occasions as the present:—it is this, and God forbid it should be otherwise, that in the very frame-work of the crime, the Jury should have a full cognizance of it, and a full jurisdiction over it; that the Jury should be alone the judges, as to the nature and extent of the criminality charged; that neither the book itself, nor a paragraph selected from the book, nor any expression shall be said to be criminal, unless the Jury go with that idea, which forms a part of the Indictment, imputing to the Publisher the criminal intention ascribed upon that Indictment. God be praised, that power is fully acknowledged.

knownedged. All that the Officer of the Crown has done in this instance is, and with a vigilance becoming him, to see that the matter imputed to the prisoner now, should come before a Jury of the City of London for their determination. What the duty of the Attorney-General was, in the first instance, is as it were your duty now. You are to look at the circumstances as he has done; but you have a greater power than he has, for you are to determine upon the guilt or innocence of the party accused.

Gentlemen, I confess in the agitation of questions relative to libel, it has frequently struck my mind, some things perhaps had been better without prosecution, and that prosecutions ought to be directed against others; but in the result of all these inquiries, as far as my mind has enabled me to come to a result, I can only lament the imperfection of all possible human establishments.

If sedition were suffered to be scattered abroad among the people in any possible way, to be sure any man of common sense must easily and readily go along with me in saying, that infinite mischief must follow. What then is to be done? It is the duty of that great law officer of the country, the Attorney-General, when he has information from the different persons who are employed under him, and by his directions to inform him of those things that are going on in society; if they should appear to have a dangerous tendency, it highly becomes him to put them in a state of inquiry, that punishment may follow where punishment is deserved, and punishment may follow under the administration of justice in this country, according only to the law; that idea is conveyed in a short Latin sentence, which I will beg leave to translate: Punishment is only intended "*ut poena in paucos metus in omnes incidat*;" that is, that the punishment which must follow the conviction of the crime, should only fall upon a few, and falling upon a few glaring offenders, that all should apprehend the danger of transgressing.

The Attorney-General, who cannot do himself the honour of attending before you to-day, and therefore it devolves upon me, in my humble station, to represent this

case to you: he would have said this if he had been here, which I will say for him. I have now discharged my duty, I only submit the question to you, and it is for you to decide; he can do no more, and I am sure you will do your duty, as he has done his.

Gentlemen, the particular charge which has been stated by my friend, and had before been stated to you by the Officer of the Court, I shall beg the liberty of calling your attention to again. But before I do this, let me remark, that when a man is prosecuted for words spoken, it seldom happens, unless the behaviour of the person has furnished evidence against himself, either by the manner in which he has spoken the words, the place in which he has spoken the words, or other circumstances, that the evidence of intention can so fairly be got at, as to leave no doubt whatever. In a publication, likewise, it may sometimes be difficult to come at the intent of the author; but in order to do that, you must necessarily go into the context, and into the whole publication. Where it can arise as a defence for the man accused, that the words which are selected for prosecution convey a different meaning when taken in detached sentences, from what they bear in connection with the general context, it is fair that he should have that defence; he should have the advantage of the whole being taken together. So on the contrary, if the whole being taken together manifests the intention of a part, it is equally proper, that as the evidence on one side may be in his favour, so on the other side it is to be considered whether it is not against him.

Gentlemen, the paragraphs selected here, and which are stated upon this Indictment by necessary innuendos, as they are called in law, that is, when a part is said to be offensive, it is necessary, in point of law, that that very expression should be so pointed out, and should be said to be so far criminal, as that it means so and so; whether the meaning be fair or not, it is your province to determine. Now, Gentlemen, in the present instance the paragraph which has been selected is of this nature.

“ You must know then that I used, together with a variety of youthful attachments, to be very fond of birds
“ and

"and poultry, and among other things of this kind
 "I had a very fine majestic kind of animal, a Game
 "Cock,"—"meaning thereby," as we have taken upon
 us to state upon this record, to allude to the person of his
 Majesty.—Gentlemen, this is the meaning which is af-
 scribed to it, whether it bears this meaning is your pro-
 vince as I said before to determine. Then Gentlemen you
 are to judge of it in this way; it makes it's appearance in
 a pamphlet, price two-pence, entitled—"Politics for the
 "People."—Politics for the People.—For whom is it
 meant? Is it not meant to be circulated among the peo-
 ple? according to the common acceptation of the term
 people. Politics—circumstances of public agitation sub-
 mitted to the consideration of the lowest class of society.

Then the first part of the title is—"Politics for the
 People," it goes on, "or Hog's Wash." I dare say, Gen-
 tlemen, that many of you can account for the adoption
 of that term, *Hog's Wash*. I confess that it strikes me, it
 has been taken up by the author of this book, as a sort of
 comment upon a term or terms which escaped in the heat
 of debate in parliament from some member there. I re-
 member some expression being made use of which has un-
 dergone a variety of comments, where the SWINISH
 MULTITUDE had been the term made use of. I con-
 fess I would not have been the person to have made use of
 such an expression; but, however, it does not seem to me
 to convey such an idea as justifies the following it up with
 such comments, for it has been followed up with a conti-
 nuance of comment which has extended the meaning, I
 am persuaded, infinitely beyond the intention or beyond
 the mind of the Gentleman who made use of it; it might
 have been reprehensible, I do not say but it was reprehens-
 ible, but the intention ascribed here is infinitely worse,
 using the words in this way is much more likely to produce
 the very effect which we say this libel is calculated to pro-
 duce.

Gentlemen, you see the title of this pamphlet is—"Po-
 litics for the People; or, Hog's Wash;" indeed it is
 intituled "number eight," so as to manifest that there
 have

have been many preceding this publication ; it is price two-pence. It begins indeed with poetry, which you will have an opportunity of seeing by and by if you please, but as I have much to say to you upon the present prosecution, I will not waste your time to advert to those circumstances that are immaterial. The poetry in the first part, I am contented you shall read at your leisure ; if there is any thing that can render it pleasant to the imagination, or improving to the mind, or in any shape have a tendency to favor the defendant in the least degree, I beseech you to read it and give him the advantage of it.

Gentlemen, then we come to the second page, at the top of which there appears this—" King Chaunteclere, or the Fate of Tyranny," and it is supposed to be—" An anecdote related by Citizen Thelwall at the Capel Court Society, during the discussion of a Question relative to the comparative influence of the Love of Life and Liberty, and of the fair Sex on the Actions of Mankind." I shall not waste much of your time in commenting upon either the passage I have read, or what follows, saying this, that Mr. Thelwall is represented as discussing this question, and as discussing those matters which may be supposed to relate to the Love of Life and Liberty. You will have, as I stated before, the pamphlet in your hand ; look, I beseech you, a little to the agitation of the question of the Love of Life and the Love of Liberty, and if you can put any other interpretation upon it, than that which readily starts into my mind, for God's sake do it ; but see if it be not this, if the very agitation of that question is not to beget a sort of indifference about the shedding of human blood, driving, as it were, the mind to a contempt of danger, and setting up an idea of liberty not a real one ; but making you suppose, or attempting to make you suppose, that every other thing but liberty, as they are pleased to call it, is to be held in contempt, that every thing which stands in the way of it, that any thing which may under any possibility be deemed likely to beget tyranny, is to be got rid of, inasmuch as it is in the way of that liberty, and that Kings are in the way of liberty, and are only to be got rid of by death, by cutting off the head.

Gentlemen,

Gentlemen, it would be impertinent in me to suppose, that you are not as conversant as myself with the evils that pervade a neighbouring country.—It would be impertinent in me to suppose you are not equally apprized of the fatal and melancholy catastrophe attending the late King of France; but before I comment further upon this passage, let me call your attention to another little paragraph appearing in this book, which I declare to God, when I first read I could not get over without tears; the circumstance is mentioned in such a flippant way, and so opposite to the feelings of a man of common humanity, that I think you will go with me in your feelings as soon as ever I state this little paragraph to you.

You have heard that there was a man on the other side of the water of the name of Monsieur Condorcet—this is a paragraph that the author of this book has inserted under the title of—"Reflections of a True Briton;" but before I read the paragraph, I will confess that my mind is relieved a little in not being obliged to look upon that man as the author, I prosecute him only as the publisher; if I were to look upon him as the author, my eye could hardly turn towards him without a flash of indignation, but I am relieved from that by his being prosecuted as the publisher, and not as the author. Now, Gentlemen, observe the flippant, the unfeeling, the cruel manner in which a transaction like that to which I have alluded, is mentioned—
 "Monsieur Condorcet, when he announced in his Gazette,
 "that our theatres had been shut up, on the news of Lewis
 "Capet's death, pleasantly observed, *That it was not the*
"common players who acted in the farce of that day."

Now what does this betoken? a mind looking at a transaction of that sort with a degree of pleasure and unconcern; there is a common idea, and I am sure it is impressed upon every man's mind, from the highest to the lowest in society, and which frequently manifests itself in an expression of that sort: "Had my dog met with such a fate, I should have regretted him"—but heavenly God! can we divest ourselves of those feelings that grow up with us in society, and under the indulgence of which we are indebted
 for

for every possible human felicity; for without feelings of tenderness and compassion, what would the human being be?—Gentlemen, we have at this day but too many opportunities of seeing *what a beast* a human being is, when he breaks loose from the bonds of society, and betakes himself to those courses which follow from anarchy and confusion.

This paragraph, therefore, is found in this book, I say that is lamentable indeed, but it is found in a chapter thus described—"The Reflections of a true Briton."—God forbid that that character which stands almost above all others in the world, a Briton, a manly, a true Briton; God forbid that he should ever be found to have a heart like that, a characteristic which impeaches the humanity and feeling of the being—that can never be the reflection of a true Briton; but the author, whoever he be, that has assumed this character, has traduced the name and character of a true Briton, when he assumes himself to be such, and follows a course like that which I have represented to you.

Gentlemen, this chapter contains that which is the subject of another count in this indictment—"Kings are wolf shepherds." Will you permit me for a moment to digress a little into that which I hope will ever remain a subject unattacked—shall it be allowed to a man to impose upon fair understandings, having mischief in his mind, and having no possible earthly good purpose; shall it be allowed to such a man to say, Here I am as a friend of mankind agitating a fair question? God forbid that fair discussion should be ever the subject of an attack, or should ever call upon you for your deliberation; fair discussion upon points of government is as open to the subject and as allowable as the agitation of any other questions, and I will be bold to say, that never yet was it supposed from the beginning of civil society to the present hour, that the man who meant fairly, whose heart moved honestly, who was a useful member of society, who could be said to be a good father, a good husband, a kind neighbour, and who was endowed with the common social feelings, it never yet was said, that there could be a doubt whether such a man meant fairly when discussing topics of this description.

Many

Many attempts have been made to pervert the understanding of those who have the ultimate jurisdiction; for God knows, it has happened but too frequently in our profession that ingenuity has been carried to the utmost height, a thing allowable in the advocate, to give the most plausible interpretation, or the most favourable comment, where there has been any pretence for calling the work under prosecution, fair discussion. But I need not trouble you on this subject, inasmuch as this varies as much from every species of libel of that kind, as any thing the most insignificant, can from the most important.

Gentlemen, now let me call your attention a little to that which is the specific subject of the indictment, and see whether you can affix any other than that very meaning that is put upon the whole of this sentence by the innuendos—if you can you will; but judge of it fairly, and see if it does not import this, for I think it cannot import any thing else.—“ You must know then that I used, together
 “ with a variety of youthful attachments, to be very fond
 “ of birds and poultry, and among other things of this
 “ kind, I had a very fine majestic kind of animal, a game
 “ cock, a haughty sanguinary tyrant, nursed in blood and
 “ slaughter from his infancy, fond of foreign wars and
 “ *domestic rebellions*, into which he would sometimes drive
 “ his subjects by his oppressive obstinacy, in hopes that he
 “ might increase his power and glory by their suppression.”

Gentlemen, without going any further in stating that which is the particular and specific ground of this indictment, can you have a doubt upon this? Then so far I am sure I may take the liberty of saying, that I have not a doubt but your minds will go with me as to the meaning which is affixed to these words.

Then come to that which is the main part of the enquiry, and of every Jury's enquiry upon a subject of this sort; *the intention of the man*. If the author were standing before you, it would be impossible in the nature of things for any ingenuity upon earth to say, that he had a fair, a kind, or a good intention. What is it calculated—what is it intended for? To go among the people, to be

D

bought

bought up by them at two-pence a piece : so it is to be circulated, and whatever is to be inferred from this story is to be impressed upon their minds.

Gentlemen, I confess very lately when I was looking over a French publication, a pamphlet of Monsieur Brisot's, there was a passage in it that struck me with astonishment at the neatness of the description and the justness of the remark, as to the consequence which must take place wherever the circumstances exist which gave rise to the observation ; it struck me, I say, with astonishment. He is speaking of the terrible want of order in that country, of the manner in which discontents are disseminated ; and he carries his attention down to the poor cottager, who being poisoned himself, carries the contagion not only to his own home, but spreads it around his little hut. So it is with every thing of this sort, so it is indeed, to make use of a simile ; if a stone be thrown into the water, at first we perceive a little circle upon the surface, another still succeeds, and then another, till the whole circumference, which is immense, is described in that circle ; and, Gentlemen, when we look at the possibility of disseminating discontents, we must always see that the beginning must be of this nature.

What then is this calculated for ? not to meet the eye ; not to reach the ear ; not to be an object of search of any man of literature, of any gentlemen such as you ; but it is calculated to find it's way among the lowest of the people, to excite them to discontents and commotions, such and such only can be it's purpose ; the very nature of the publication, the price, the title of it, all manifest this. If it were to come to the attention, if it were to fall before the eye of any men better informed than the rude and vulgar, perhaps they would have looked upon it as contemptible ; but although it is so contemptible, it does not follow that it is not the less mischievous ; the observation I make to you for your approbation is, that it is infinitely more mischievous, the more the thing is calculated to harrafs and disturb the lower order of the people.

Gentle-

Gentlemen, no man is hardy enough to expose himself at once to the immediate fang of the law; bad minds have always their contrivances about them; but God be praised for the benefit of society, those contrivances seldom are capable of avail, they frequently expose their authors to punishment. So it is here; not that this man, or the author whoever he may have been, would dare openly to have attacked the King of this country, or would dare openly to say to any part of the multitude, "do this or that;" nor would he do so in his writing; but there is a contrivance made use of, it is written in a species of fable; a species of simile or allegory, as it is called, is used to convey those sentiments; but whatever the contrivance may be, we are to resort to that which is capable of unravelling the mystery in both instances; namely, the fair and sober enquiry of a Jury, and whatever the nature of the concealment may be, if a man makes use of a similitude, if he is charged with meaning the King by the character of a Cock: it is for you fairly to say whether he had not this meaning, and therefore it is, that there is no possible device or artifice of a man that shall screen him from the investigation of a Jury, and if a Jury conceive he has so wrought up this matter by putting upon it any sort of flimsy concealment, they will strip the veil from it, they will look at it, and see what the matter is that is so concealed. So in this case the author has endeavoured, by alluding to a game cock, to conceal his intention.

But, Gentlemen, I call your attention most earnestly to that which Citizen Thelwall, as he is supposed to be, is discussing in this libel: you will see from the part which precedes, and the circumstances that follow, there could have been no other object in the mind of the author, than those objects to which I have alluded.

Gentlemen, when you travel a little further on in this publication, (the book is not large, it would not take you up above ten minutes to read it all through,) I will not indeed insult you by supposing that any of you have read it with any attention, though it may have got by accident into your hands very fairly, and you may have looked at it, and may have laughed at part of it; but you will find another

part which manifests what the intention of the man is—he is first of all commenting upon the nature of the right which every subject has in this country, to insist upon a free and open discussion. God forbid that free and open discussion should ever be abridged, and how can it be abridged? it can never be but by those men who are the worst enemies to society, abusing the liberty of discussion. So it is with the freedom of the press, the most invaluable blessing, at the mention of which every man is alive. There is no man can check another's publication of his thoughts, whatever his thoughts may be; but if those thoughts turn out to be mischievous to the public, and instead of serving the purposes of mankind, threaten their ruin and destruction, God forbid that those thoughts so promulgated should not provoke an enquiry, for then they become the fair objects of punishment.

The liberty of the press, that boast, and highest boast almost of an Englishman, how is that to be endangered? It may be in danger, for ought I know, in succeeding generations; and I am sure, if ever it is put in danger, it will be by the abuses of those who are the greatest enemies to it, at the very time they are putting on the audacious effrontery of pretending to be its friends; those men who are the authors and publishers of things like this, are at all times the men to stand forward with the most unblushing effrontery, and say, the liberty of the press is violated in our persons; conscious as they are that they are the men whose conduct, originating in the worst motives, is calculated to produce mischiefs innumerable to society; well knowing, that they deserve no protection, being in the very abuse of that which ought to be looked upon as the chiefest blessing of the country. So it is with publications of this sort; this circumstance is assumed in another part of the book. Mr. Thelwall, the character supposed to be in being here, and upon the scene, is represented as attacked during the discussion of the question, and there is a sentiment which he brings forward in consequence of that attack, which is of an extremely dangerous nature indeed. After having mentioned what had passed in the society, he says:

“ These

“ These circumstances are important to be generally known ; since they prove, that notwithstanding the false appearances which have been artfully assumed by intriguing and interested individuals, pretending to more authority than they have, there is no power in this country that can openly and legally interfere to prevent the freedom of political discussion, if individuals will have spirit enough to assert it.”

What is this but saying, to any parcel of people that may be collected together in any place, “ Gentlemen, if you have individually spirit enough to assert, and insist upon any sort of freedom that you think proper, have but that spirit in the individual, the accumulated spirit of those individuals must be capable of carrying into effect whatever your intention may be.” Is it any thing else, is it short of that ? Then you see that these few pages contain nothing but political matters, and nothing on those subjects but such sort of ideas as are calculated to disturb and harass the public mind. What is this ? it is called—“ Politics for the people ;” to be scattered among the people.

Gentlemen, I think I need not further advert either to the pamphlet, to the charge, or to that which arises out of the pamphlet, or out of the charge. I will make a few observations upon the nature of these prosecutions, and upon the defences set up. These prosecutions, I say, must be instituted, because there is no other mode in this country, or upon earth, by which publications of this sort can be checked. If you think fit, or if you think society would be benefited by these things having their free course uninterrupted, your wishes, if they should incline that way, may, for what I know, act upon your minds so as to prevail upon you to believe, that there can be no harm in this pamphlet ; but I am persuaded that is impossible in minds like your’s.

It has been said, and truly, that whenever a libel is prosecuted, it draws it into a second course of agitation, and that the very observations made upon the libel in a Court of Justice, become, as it were, a promulgation of the libel itself. That is extremely true, and it has happened over
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and over again; it has happened within my own time, and happened, I am sure, in times before; that the very matter being brought forth, and the observations made upon it, which are indeed necessary, and my learned friend, who is counsel for the defendant to-day, I am sure will exercise his ingenuity; and in doing so, he will do no more than his duty to his client. His ingenuity is equal to much; I venture to think his display of talents upon this occasion will be such as to excite admiration, and the more admiration it is attended with, I hope I know myself when I say, the more pleasure I shall feel. I shall be extremely happy to find, that my friend, in the observations he can possibly offer to you upon the present occasion, shall deserve your approbation, and shall deserve your admiration.

Gentlemen, whatever the talents may be when they are exerted in a case, where exertion can hardly produce any effect, and where the influence of that exertion, however you may admire the talents of the advocate, cannot possibly go the length of convincing your judgments, or in any measure of altering the determination you are to make: we admire the advocate who is on the wrong side of the question, for the eloquence and learning which he shews; but thank God, in this country, there is a tribunal which is to decide, after all the exertions of the advocate. You will enquire into the naked fact; the present case is, indeed, more complicated; but in the examination you are to make, the question must be stripped at last of all the observations that I can make, feeble as they are, and it will be equally stripped of all the observations my learned friend will make, strong as they will be, putting all those out of the case, at the same time judging and determining whether I have called upon you to exercise either your feelings or your judgments, and understandings, in any way but in a fair and impartial manner, you will decide this case.

Gentlemen, I have not read the whole of the passage to you that is selected from this pamphlet, and put upon the record, because it goes down at last to those allusions which are so palpable, that it is impossible, in the nature of things, that they can be mistaken; the trappings of royalty are mentioned;

mentioned ; there is every sort of similitude, and every sort of allusion, from whence to infer, that the trappings are meant to apply to royalty, and royalty as existing in this country ; that the King himself is that species of tyrant that ought to be got rid of, and that is only to be got rid of by that instrument which is alluded to in another part of the little book, which you, I am sure, will see when you come to look at it, to be the unavoidable meaning to be affixed to it.

Gentlemen, I would not wish to aggravate any case to you ; but does not this appear to be ferocious and savage ? Supposing it to have that allusion which I have attributed to it, and to be distributed among the people, what are the ends that the writer proposes by it ? The ends of it are to render the people ferocious, to render them bloody, to render them cruel, and to dispose them to carry into effect such an act of cruelty as would plunge this country into a state of wretchedness indeed. This I would say is the end proposed, the inevitable consequences that must take place from the circulation of a book of this sort among the people. I have stated that it is most evidently calculated for the lowest of the people, and not to reach any higher circles, and therefore, it is infinitely more mischievous than any, except one, libel that was ever prosecuted, which was calculated for another purpose, and that was defended under an idea of the freedom of discussion, though not justified. Justification will hardly ever follow, and I am sure, when minds like your's, view the subject fairly, and see that when what is said, is not to be palliated, is not to be excused, and cannot be justified, something may be said upon a question, however obvious it may be, however plain a proposition may be to my mind, something may be said upon it ; and I may hesitate a little ; but with the fair discussion of a common understanding, looking at all points which are the fair objects of human contemplation, the human mind will be at last capable of coming to a true conclusion.

Without reading any more of this book to you, which you will read after you have referred to those parts to which I have more immediately alluded, the conclusion seems to present

present itself to the mind in only one shape, and it is not in the power of quibble, of ingenuity, or wit, or any species of faculty that belongs to the human mind, to put any other interpretation upon it than that given by the record.

Gentlemen, there will be one more subject of your inquiry, and of your attention; but as I am perfectly assured that observations relative to that will come from the learned Judge who tries this indictment, with infinitely more force than they can come from me, I may spare you the time of attending to such observations as these; that is upon the nature and the character of the first Magistrate in this country. It is highly indecorous, that I am sure you will go with me in saying, for any one in the least degree to speak disrespectfully of another against whom he can have no cause of complaint; but to speak disrespectfully of the first Magistrate of this country, is deemed highly indecorous and indecent, and his character therefore is for the wisest purposes particularly protected.

Then tracing this from the lowest degree of misdemeanor that can be committed against the King, tracing it from the lowest state to the highest, passing over the intermediate degrees of offences, many of them that are trifling, and still stopping short of that which comes within the verge of treason, can there be an offence more aggravated in its kind than this? It is not only treating disrespectfully, but it is treating with a degree of sarcasm in the first instance, which manifests a strong malevolence to the character; and in the next place, it is giving to the mind of every man, that can be impressed by such a publication as this, not only an indifference to the character of the King, but a perfect detestation of such character, and suggesting that the means of getting rid of such a character must be by a stroke similar to that which has taken place in a neighbouring unhappy country.

Gentlemen, I shall therefore abstain from all observations upon the royal character, as to the manner in which it is protected here, as to the utility of the office, and as to the benefit and the advantage derived from it by the inhabitants of this country, because sure I am, you are equally conver-

conversant with the intercourses of commerce, and with the vast and important objects that result from commercial intercourse, under the blessings of a free constitution like our's, where respect to government insures that tranquility under which alone those commercial benefits can arise, and happiness to man take place. I say, therefore, with the effects of the constitution, you are much better acquainted than I am; my walk is in a more confined way than your's; I see not so much of the manufactures and merchandize of the country, as day after day are to be found in the City of London, and which I will be bold to say, are only to be found in this city; and I will be bold again to say, that it is alone owing to the form of government that we live under; and again, that unless the royal person, the sovereign of this country, were at the head of that constitution, the effects would not be what they are.

Then, Gentlemen, to what other circumstances need I advert? I am sure my friend, who is advocate for the defendant, will never suppose, that by calling your attention to these words, he can fritter them away. I think it may be suggested, because I have heard it before suggested, that here, where the cock is mentioned, and we say in our indictment that it means the King; good God! the advocate may say, (because an advocate can always affect astonishment,) why should you suppose the King is meant by this cock?—I can only say I will leave it to the determination of twelve Gentlemen, to say, whether it be so or not, I am sure it cannot be otherwise; and though he may please to say, by your legal operation of an innuendo, you may charge that the cock means the King; why you are the libeller yourself, by putting it upon the record, I can only observe it is extremely ingenious; but you, Gentlemen, will be to determine between us: therefore let ingenuity be exercised, let it have it's fair course. I am sure my friend will be ingenious. I am sure in his address to you there will be much to admire; but it happens, indeed, to be a subject where there cannot be any great benefit resulting to his client from it. When my friend has done his duty, I do confess, feeling this prosecution as a matter

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of infinite importance, I shall look with extreme earnestness for your verdict.—I presume I shall not have any occasion to trouble you again, therefore it is fit I should make all the observations I have to offer now; it is upon that account you will pardon me for the length of time I have taken up.

I have already hinted to you, that we prosecute this man as the publisher. Now, Gentlemen, when the book is sold at his house, if he be not there, he is as much guilty as if he were. This is a matter very well known to be law from the earliest time; it is one of the cases in law, where a master may be criminated by the act of his servant, even though he himself be not present. If his wife sells the libel, he is criminal; and unless it were so, the law would, you see, be frustrated in thousands of instances; the law is, that the owner of the shop, the man having the profit of the business, shall be answerable; but here the book appears to be printed for the very man at the bar, and I dare say, he will hardly deny it; from the manner in which he bears himself, I do not know, whether he might not absolutely triumph in it. But, however, with respect to the criminality, and the law attacking upon that criminality, there can be no doubt.

The evidence I shall have to lay before you, will be the most simple imaginable, that is, that the book was bought at his shop. What relates to the manner in which his business is generally carried on, I forbear to state. You perceive that with respect to these two charges, I have not even stated them to you at full length, because the book, if you please to have it, may be delivered to you, and you may there satisfy your own curiosity.

I have said before, I felt myself relieved that I had not to prosecute that man as the author; he may not be the author, I hope, in God, he is not; although he is criminal as the publisher, and although the publisher does infinitely more mischief, sometimes, than the author, and often has it happened that the publisher is a stimulator to the author; yet I hope he has not the heart to be the author of some of these paragraphs.

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Gentlemen, you have the case before you, I have done my duty, the Attorney General has done his, and those Gentlemen who have been engaged in order to bring the prosecution into a shape before you, discharge their duty when they submit it to you, and when they do that, I am sure it is in perfectly safe hands, and it would be most impertinent in me to suggest a possibility of your doing otherwise than your duty.

THE EVIDENCE FOR THE PROSECUTION.

JOHN BOULT (Sworn)

Examined by Mr. KNOWLYS.

Q. Be so good as to look at that book, and tell me whether you bought it, and where?

A. Yes, I bought it.

Q. Where?

A. At No. 81, Bishopsgate-Street.

Q. At the time you bought it did you make any writing upon it to enable you to know it again?

A. Yes, within half an hour afterwards.

Q. Is that your writing?

A. Yes.

Q. Who kept that shop?

A. Daniel Isaac Eaton;

Q. The Defendant at the Bar?

A. Yes.

Q. When did you buy it?

A. On the 18th of November last—I bought numbers 6, 7, and 8, for a gentleman at the same time.

Q. Of Politics for the People, or Hog's Wash?

A. Yes.

Q. Was this a separate number at the time you bought it?

A. Yes.

Q. And you bought other numbers of the same sort at the same time?

A. Yes

A. Yes, Numbers 6, 7, and 8.

Mr. RECORDER. The pamphlet he is now prosecuted for is No. 8.

Mr. KNOWLYS. It is.

CROSS EXAMINATION.

By Mr. WOODHOUSE.

Q. What are you?

A. A news carrier.

Q. You get your livelihood by that?

A. Yes.

Q. What induced you to go for these books?

A. I went to buy them for a gentleman.

Q. Who was that gentleman?

A. One Mr. Bevan.

Q. Is he a news carrier?

A. No.

Q. Did you ever appear here before?

A. No.

Q. You get your livelihood solely by selling books?

A. Yes.

Q. That is your sole trade?

A. Yes.

Q. You never got any thing by informing, I suppose?

A. No, never.

Mr.

Mr. KNOWLYS. The gentleman has asked you, why you went to that shop? Did not you go to it because it was the shop where those things were sold?

A. Yes.

Mr. GURNEY. I desire that the whole of the speech of Mr. Thelwall may be read, a part only of which is included in the indictment.

Mr. FIELDING. You may read it as part of your evidence.

Mr. GURNEY. I know I may; but I conceive I have a right to have it read as part of your's. Whenever a part of a paper is read in evidence by one party, the other party has a right to insist upon the whole being read at that time.

Mr. RECORDER. I think you must read it as part of your evidence, if you wish to have it read.

Mr. GURNEY. It is scarcely worth contesting; I am sure the Jury will read the whole.

Mr. RECORDER. You certainly have a right to have the whole pamphlet laid before the Jury.

The paragraphs included in the indictment were read.

Mr.

Mr. GURNEY.

Gentlemen of the Jury,

It is extremely unfortunate for the defendant, Mr. Eaton, it is perhaps not less unfortunate for me, that the indisposition of my learned leader, Mr. Vaughan, in the first instance, and his delicacy, in the second, occasion the task of addressing you this day to devolve upon me. It is unfortunate for the defendant, because he loses the benefit of those splendid talents, which have been exerted once and again in his behalf, not without success; it is unfortunate for me, because it sets those splendid talents, to a certain degree, in contrast with talents of a very opposite description. But I feel myself consoled, I feel myself animated by this consideration, that, notwithstanding all you have hitherto heard, to the defence of this Indictment, the meanest talents are more than equal.

If this prosecution could assume a shape other than the most disgusting, it would undoubtedly receive it from the very liberal, able, and eloquent manner, in which it has been opened by my learned friend. But to fix an agreeable mask upon it, is not within the compass even of his transcendent abilities.

Gentlemen, it is so common a topic of complaint in these prosecutions, that I should have been surprised if it had been omitted to-day, that this is peculiarly and emphatically an age of sedition, that the press teems with libels calculated to vilify every thing that is great and good, libels designed to subvert the foundation of all government, to dissolve the bonds of society, and to introduce confusion and anarchy. If I had not received the respectable assurance I have upon this subject, if I had been left to form my opinion upon what I see on the record you have to try, I should have formed an opinion that the fact was totally different. I should have supposed, that libels had become so scarce a commodity, that with all the industry of that numerous herd of Spies, Informers, and Inquisitors, with which this metropolis now abounds, none could be found—not one; and therefore, in order to keep business alive,

these ingenious gentlemen had set themselves to work to make one. For if they had not so done, Mr. Eaton would not now be standing at that bar.

My learned friend has made a liberal use of that talent, which he so eminently possesses, of working upon your passions and upon that of the audience, and in so doing he has acted judiciously, because without captivating your passions, he can have no hope of convincing your judgment. But, Gentlemen, sustaining the sacred character you do at this moment sustain, I call upon you to set a guard upon those passions which are so liable to seduction, and which, when seduced, lead the judgment captive at their will. I call upon you, to apply to the consideration of this case, a judgment equally unempassioned and unprejudiced. In order that you should do so, it becomes me now to state, that the defence of my client does not impose upon me, as you may have imagined, the necessity of endeavouring to cool the fervour of your affection for the person of the king, or to lessen your attachment to his government. If the defence of Mr. Eaton had made it requisite to avow, that a man has a right to call the king an haughty and sanguinary tyrant, I should have told him he must have recourse to some other Counsel, for that in the discharge of my duty as an Advocate, I could not forget my duty as an Englishman. No, Gentlemen, I conjure you with equal earnestness to that of my learned friend, I wish I could do it with equal eloquence, to foster and cherish every sentiment and every feeling of affection for your king, and in the very fervor of your passion, I will call upon you, and call upon you with confidence of success, to condemn this indictment, and to acquit this defendant.

But this prosecution would have been incomplete, it would have been an anomaly in the prosecutions of the present day; if the affairs of France had not been introduced. And why are they introduced? Because it is supposed that you will so far forget your duty and your oaths, as to apply any opinion which you may have formed upon them to the injury of the defendant in this cause. If considered rightly, I think the result will not be unfavourable to the defendant. Whatever disorders may have tarnished the French Revolution,

lution, they afford an argument to Englishmen to prize and maintain every liberty they possess, and above all the liberty of the press.

If the French, after having been kept in darkness for ages, were, when the light first beamed upon their astonished sight, dazzled with it's lustre, and therefore mistook one object for another, it is not they whom we ought so severely to censure, as the detested monsters who had so long veiled their eyes. If after having been for ages instructed in lessons of barbarity, from the open and unauthorized exercise of which they were restrained, is it so very extraordinary that when that restraint was removed, some of them should practise the lessons their former masters had taught them? If in their progress from slavery to freedom they have had to traverse a narrow and a slippery path, assailed by foes without, and by traitors within, is it to be wondered at that many of them should stumble and should fall?

But is liberty to be decried, because at any time, or upon any occasion, licentiousness has assumed it's name? No; it ought rather to stimulate every people who possess it, to preserve it in it's pristine purity; above all, it ought to stimulate them to the preservation of that part, without which they would sink into a state of stupid ignorance, and consequently of abject slavery.

Gentlemen, In the fulfilment of the solemn and sacred duties of Jurymen, there are few cases which have a stronger claim upon your attention, than prosecutions for political libels. A prosecution for a political libel is a charge not of the ordinary commission of a common wrong, but of the abuse of a common right. I do not mean to say, that the abuse of a common right may not amount to the commission of a common wrong, but that it is a charge of a different description, requiring stronger evidence to support it, and to be decided by the application of different principles. The ordinary commission of a common wrong, is the doing an act which the law has expressly forbidden, and for which, therefore, when the party does it, he knows he is amenable to the law. The abuse of a common and acknowledged

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right, may proceed from a mind deeply impressed with the importance of the right, and eagerly employed in it's exercise, not being sufficiently acquainted with it's bounds and limits. If there is any common right, into the abuse of which we should not inquire with extraordinary rigour, it is that right, the exercise of which is called in question this day, not only on account of it's infinite moment to the public, but because it's limits have never yet been ascertained with precision. So far indeed are they from having been ascertained with precision, that no two men, no two lawyers are agreed upon the subject.

But, Gentlemen, I have not in this case to implore mercy or indulgence for excess. I have only to claim your justice. For of all the prosecutions for libels that ever came into a Court of Justice, I will venture to say, this is the most extraordinary, I will add, it is the most alarming. For I have no hesitation to assert, that if it were to succeed, the freedom of the press could not survive a single hour.

Having stated this proposition broadly and boldly, I come immediately to the proof of it.

The charge contained in this indictment is, that the defendant "being a malicious, seditious, and evil-disposed person, and greatly disaffected to our lord the king and to his administration of the government of this kingdom, and unlawfully, maliciously, and seditiously contriving, devising, and intending to scandalize, traduce, and vilify our said lord the king, and the regal power and office established by law within this realm, and to represent our said lord the king as sanguinary, tyrannical, oppressive, cruel, and despotic, and thereby to stir up and excite discontents and seditious amongst the subjects of our said lord the king, and to alienate and withdraw the fidelity, affection, and allegiance of his said majesty's subjects from his said majesty's person and government, unlawfully, maliciously, and seditiously did publish a certain printed pamphlet, intituled, *POLITICS FOR THE PEOPLE, OR HOG'S WASH*, containing certain scandalous, malicious, inflammatory, and seditious matters of and concerning our said lord the king."

My

My learned friend has animadverted with some severity upon the title of this pamphlet, "Politics for the People, or Hog's Wash." I really do not see any thing criminal in the title. The latter part is a play upon a phrase which has been used to describe the People, not as my learned friend has supposed, an incautious expression in the heat of parliamentary debate, but an expression deliberately and solemnly recorded in a book which has run through ten or twelve editions, and which retains its place in that book to the present hour. Now if the people are the "Swinish Multitude," I do not think Mr. Eaton is deserving of punishment for supplying them with food adapted to their nature. "Politics for the People." Whom are politics for, but for the people? Are politics for placemen and pensioners only? Are they alone blessed with understandings fitted to the investigation of this sublime and mysterious science? Or is it not, or at least ought it not to be, a subject within the comprehension of every man? But the price is twopence, *hinc illæ lacrymæ*. If it be a crime to sell a political pamphlet cheap, Mr. Eaton must plead guilty to that charge, but so far from confessing it as a crime, I state it as a merit, I challenge for him applause. Political pamphlets, I think, should be cheap. I am very sure that public order and tranquillity will never be maintained so well as when every man reads and understands political pamphlets, because there is no obedience to law so exemplary, there is no attachment to a good constitution so strong, as that which results from a knowledge of the reason and obligation of law, and the true principles as well as beneficial effects of the constitution.

Gentlemen, You perceive that in the paper which this man has published, there is not a single syllable "of and concerning our sovereign lord the king," but that every thing which is said of this famous game cock is charged by the indictment to have been meant of him, and is in words applied to him in a number of parentheses, that you will find in the indictment, which parentheses we call *innuendos*.

Innuendos have in former times gone such lengths as to draw down some degree of ridicule upon them, but never

before I believe have they gone the length of the innuendos in this indictment. The sole purpose of an innuendo, is to fix the true meaning. An innuendo is not to be an arbitrary thing at the pleasure of the drawer of an indictment; it must be warranted by the context; it must be conformable to the sense of the paper: the sense of the paper must not be forced or strained; it must be the natural, the plain, the obvious, the necessary sense.

This art of drawing indictments, and contriving innuendos, and so manufacturing libels, is indeed a curious art. I do not know, and I really am at a loss to conjecture, who could have been the drawer of this indictment. From its internal evidence, I am led to suppose it must have been the author of the Arabian Nights Entertainment, or some person equally conversant in the wild and extravagant fictions of the East. He must have given unbridled and unbounded licence to an imagination the most wanton and the most heated, before he could have sat down to ascribe meanings to this paper, so foreign and indeed so ridiculous. All of the innuendos, in my opinion, are far from innocent, but one of them contains the most seditious assertion I have ever seen.

The drawer of this indictment might just as well have employed himself, like Dean Swift's projector, in attempting to extract sun-beams from cucumbers, as in attempting to extract sedition from this story of the game cock.

This story of the game cock appears to have been related at a debating society, in answer to a story that had been told of a negro slave enduring the tortures of a frying-pan. The story was aptly introduced to answer the purpose of the moment, in reply to a preceding speaker. But as the story of the negro slave did naturally introduce the story of the game cock, the allusion to it is not included in this indictment, because it was the business of this indictment to conceal from you the real intention with which the story was introduced, in order to impose upon you a belief, that it was then told, and afterwards published with the criminal intentions imputed. With this view the story of the game cock is not only introduced into the indictment abruptly, but

but it closes abruptly too ; for it stops short of that part which applies it to the preceding story of the slave. These observations will be impressed more forcibly upon your minds, if when you retire to deliberate on your verdict, you take with you the pamphlet itself, and compare it with a copy of the indictment.

But, Gentlemen, I do not mean to contend that the author of this story intended merely to allude to the immediate subject before him, the tyranny exercised on a negro slave. No—the defence of my client calls not on me to attempt to circumscribe, far less to explain away any meaning which these words, taken in their utmost latitude, can imply. I will concede that the mind of the speaker, in adverting to one species of tyranny, was naturally, and I maintain laudably led to contemplate tyranny in general, and that this story which he relates was calculated to expose the evil consequences of tyranny, and to point out the just punishment of tyrants. And surely Englishmen must have undergone a strange transformation, if they can endure to hear the right of doing this called in question. Why do we look back to our ancestors with such enthusiasm and veneration ? but because in opposing tyranny and tyrants they fought, they bled, they conquered. It was their ardent love of liberty, it was their undaunted courage, it was their unshaken fortitude, it was their profound wisdom, that combined to rear that grand political fabric, the constitution of our country, which we have been accustomed to view with equal reverence and delight, upon the possession of which we have prided ourselves, but which I am sure we shall not transmit to our posterity, if we suffer the liberty of the press, which is its corner-stone, to be rudely torn away ; and torn away it will be, if such persecutions as these can succeed. What language do our ancestors hold out to us by Magna Charta, by the Habeas Corpus Act, by the Bill of Rights, and above all by the Revolution, but this, “ We have found monarchy, unlimited and unfettered, incompatible with rational freedom and social order ; we have therefore prescribed limits to it, that you and posterity may be free and happy.”

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It is not necessary for me to go so far back as the Revolution for this language; it has been held in a feebler tone perhaps, certainly with less effect, within the memory of most of us. In the year 1782, the House of Commons voted "that the influence of the Crown had increased, was increasing, and ought to be diminished." Whether they followed up that vote with such restrictions as were requisite to curtail and check that increasing influence, is not now a subject of inquiry. But it affords all I want for my argument, that every complaint of unlimited power, or of limited power transgressing the limits assigned to it, every detection of the fact, and every exposure of the consequence, is consistent with the spirit of the constitution, is warranted by precedents the most approved, and is allowed by law. It is not merely allowed, it is commanded by a law that is paramount to all human law, the law written by the finger of God in the heart of man.

But why is it to be supposed that this game cock, who is described as an haughty and sanguinary tyrant, nursed from his infancy in blood and slaughter, must necessarily mean the present mild and merciful king of Great Britain? If we survey the immense continent of Asia, nay, if we confine our view to the continent of Europe, shall we find no tyrants whom this game cock may be intended to denote? None "fond of foreign wars," if not of "domestic rebellions?" None who devour "the greater part of the grain scattered" by Providence "for the morning and evening repast" of their fellow-creatures? None who are "always picking and cuffing" at those about them, who have not strength to defend themselves? Shall we find none who have sported with obligations the most solemn, who have trampled on rights the most sacred, who in the pursuit of their fell and foul conspiracies against the peace and happiness of the human race, have disregarded every principle of justice, have outraged every feeling of humanity, have defied every mandate of their God?

But this speaker, says he, thinks the best thing one could do for men and women is to rid the world of tyrants. Is that so criminal? Then I am criminal; for I think so too.

Tyrants,

Tyrants, in any form, I believe, are much too bad to be mended, and I think the best way of disposing of them, is to send them out of a world to which they are a curse, and which they can benefit only by leaving it. If this lesson were learned and were practised by every people groaning under tyranny, soon would freedom, which is now confined to a narrow spot, diffuse her blessings through the world.

The first political truth that is engraven on the soul of man is, that all power flows from the people, and is a trust for their benefit, and that when that trust is abused, resistance is not only a right, but a duty. The Revolution in 1688 was a practical essay upon that principle. Then was that right exercised, then was that duty fulfilled. The trust reposed in a king was abused, the king became a tyrant, the people expelled him; and if he had ever dared to return, he would have expiated, and justly expiated, his crimes upon the scaffold.

But why, I ask again, is it to be supposed that the king of Great Britain is meant by this tyrant of the farm-yard? Is there any thing in the animal selected for this story being a cock? That will not serve the purpose of the prosecution. For never was the king of Great Britain represented by the emblem of a cock. The king of Great Britain has always been denoted by a lion, and the king of France by a cock: the reason of which, I suppose, was, that *Gallus*, as you well know, is latin for a cock. None of us, I am sure, can have forgot that which we were taught in our youth, that the crowing of the gallic cock should be silenced by the tremendous roaring of the british lion.

Gentlemen, We are just past the anniversary of an event to which my learned friend has adverted, I mean the execution of the last Monarch of France. The application of this story to that tragical event, cannot fail to strike every mind that pauses a moment for reflection; and if the author had a view to any person in particular, unquestionably it must have been to him: and whatever you or I may think of that monarch or his fate, we cannot
not

not deny to any man the right of thinking or speaking of him and of his fate as he pleases.

But if when any man publishes a paper on tyranny in general, or Louis the sixteenth in particular, he is to be charged by an innuendo of this sort with meaning king George the third, what will become of the security and peaceful exercise of the freedom of the press? If when any man becomes obnoxious to the ministry, every thing he says or publishes is to be thus strained and perverted for the purpose of ministerial vengeance, who can be safe? It is not booksellers only who are liable to prosecution for publishing, any of you who may happen to give a book to one of your children may be prosecuted, and your children may be dragged into this Court to lay you in gaol by their evidence; and this, perhaps, for giving them a book which no disinterested, no impartial man would conjecture to have any tendency to sedition, or even any relation to politics.

Upon the principle of this prosecution, if it has any principle, a book which, I dare say, once afforded us much pleasure and instruction, I mean *Æsop's Fables*, is the most seditious book that ever was published. Wo to Mr. Eaton, if he has ever sold that book; wo to any man that has sold it, if he has given offence to the ministers, or to any of those spies and informers who now infest this country as locusts, or the plague do some others. There is scarcely a fable that will not furnish an indictment. One of them occurs to me at this moment; it is the fable of the Ape who was made a king. To punish him for his presumption in aspiring to that character, the fox led him into a trap; and when reproached by the ape for disloyalty, he went off with a sneer, saying, "You a king, and not understand trap?"—Put this fable into an indictment, and call it a "scandalous, malicious, inflammatory and seditious libel, of and concerning our sovereign lord the king;" state in the innuendos that the ape is intended to denote our said lord the king; and that not understanding trap, means ignorance of the regal functions; and garnish all this with "against the peace of our said lord the king, his crown and dignity;" and then
you

you have patched up a most notable libel. With this receipt for drawing indictments, I could go through the book, and draw five hundred.

Gentlemen, In this way a man may be prosecuted for publishing the sacred scriptures themselves. For wherever mention is made of a wicked king, and mention is made of many wicked kings, an indictment may be drawn, charging it to be a libel upon the king of Great Britain, and by innuendos applying the expressions to him. But I ask again what man can be safe, if meanings like these are to be affixed to every thing he publishes, or every thing he says?

Let us look at the language of the story, and see the meanings which are affixed by the indictment.—“ You must know then, that I used, together with a variety of youthful attachments, to be very fond of birds and poultry; and among other things of this kind, I had a very fine majestic kind of animal, a game cock (*meaning thereby*,” says the indictment, “ *to denote and represent our said lord the king*) an haughty sanguinary tyrant, nursed in blood and slaughter from his infancy, fond of foreign wars and domestic rebellions, into which he would sometimes drive his subjects by his oppressive obstinacy, in hopes that he might increase his power and glory by their suppression. Now this haughty old tyrant—(*again*,” says the indictment, “ *meaning our said lord the king*.”) Never, I believe, since prosecutions for libels had existence, has such an indictment, containing such innuendos as these, made its appearance in an english court of justice.

The only ground on which these innuendos can be attempted to be supported, is a ground which the prosecutors will not venture to state, a ground which they cannot state; namely, that there is so palpable a resemblance of character and conduct in this game cock to our sovereign lord the king, that that man must be blind who does not see the real object, and the true application. If the innuendos had stopped here, I should have thought this indictment by no means an innocent production. But

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what must I think, what must you think, when you find an innuendo in terms the most unequivocal, charging the king with being a tyrant. "Yet I had even at that time some lurking principles of aversion to barefaced despotism, struggling at my heart, which would sometimes whisper to me that the best thing one could do either for cocks and hens, or men and women, was to rid the world of tyrants—*meaning*," the indictment says, "*our said lord the king, among others*."—Which is the libel now? Not that paper published by Mr. Eaton: For if all that is charged could be substantiated, its guilt would sink to nothing in comparison with the guilt of this indictment, which contains a libel upon record, in a court of justice, that will be handed down to the latest posterity.

Gentlemen, I now come to the close of this indictment, and it is a close worthy of it. 'A little detached sentence of three lines is lugged in to bolster up this miserable prosecution. "Kings are wolf shepherds. Homer styles them devourers of the people, and they do not appear to have lost their original taste." To the four first words of this, "Kings are Wolf Shepherds," the indictment has applied an innuendo, "*meaning, among others, our sovereign lord the king*." Never was a proposition stated more evidently false than that a general remark must have an universal application. If I speak of kings in general, am I to be understood to speak of *all* kings? Certainly not. My omitting to say *all* kings, demonstrates that I mean to exclude *some*; if to exclude any, clearly to exclude those to whom the remark is no longer applicable.

The Empress of Russia is the Shepherdess of a vast flock; but as it was not sufficiently numerous for the exercise of her boundless philanthropy, she has lately, by a little gentle compulsion, augmented it by a considerable number of the Polish Breed. She and our worthy ally the King of Prussia, have gone hand in hand in this blessed work of increasing their flocks. Possibly neither you nor I should chuse to call these two monarchs, "Wolf Shepherds;" but I fancy we should none of us be disposed to punish very severely the man who did.

All

All mankind have found by fatal experience that kings are Wolf Shepherds, if they are suffered to possess unlimited power; and therefore our ancestors employed themselves very wisely in fastening limitations on their power. But it is of kings whose power is not limited that this sentence speaks. For it is illustrated by an expression of Homer's "devourers of the people," which applies to kings whose powers are not limited as the powers of the king of Great Britain are. The king of Great Britain sustains a character totally different from that of any other king, and therefore general observations upon kings never have been, and never can be understood to apply to him. On the contrary, they necessarily exclude him. It is not long since such an application would have been considered as libellous, and I rely with confidence on the spirit and loyalty of britons for repelling an application so unfounded, and a comparison so degrading—degrading not only to the king, but to the people. For if it were admitted that our king resembled kings in general, it would be admitted that he was a despot, from which it would follow, as a necessary consequence, that the people were slaves.

I have bestowed some pains in searching for an indictment like the present, and I can find none even in that sink of iniquity, the collection of indictments in the reign of Charles the second. I believe neither the records of the Star chamber, nor the annals of Jeffreys will furnish an indictment in which a general reflection upon the nature and tendency of tyranny, or the desert of tyrants, has been deemed a libel upon the king of Great Britain.

Gentlemen of the Jury. In every case where a charge is made, that an act has been done which the law forbids, after it has been ascertained, that the act has been done, and done by the party accused, the next question is, with what intention he did the act. It is the intention which clothes the act with innocence or guilt. If you try a man for murder, you do not content yourselves with ascertaining the fact of the deceased having been killed, and killed by the prisoner you are trying; but you examine into the circumstances of the case, to know the intention

with which he killed him. If you find his intention was malicious, you pronounce him *guilty of murder*; if he was provoked by a certain degree of irritation, you pronounce him *guilty of manslaughter*; but if you find he did it accidentally, or in self-defence, you pronounce him *not guilty*.—If this be so in a matter of such deep importance to the public as the loss of a citizen, and where *prima facie*, so black a crime as murder has been perpetrated, how much more in the case of a misdemeanor, a misbehavior, which is an offence of the most trivial nature that the law takes cognizance of? If this be so in a matter where at first view the motives are the most diabolical that can predominate in the human breast, how much more in a case where the intention is on the first blush indifferent, and where it is always with hesitation and doubt that a Jury will pronounce it to be criminal? In a case where though one may consider it to be criminal, another will think it innocent, and a third will believe it to be meritorious, according to the different political principles they have embraced, according to the extent and range which in their respective opinions ought to be allowed to political discussion?

Gentlemen; When you are travelling in this dark and intricate road, you will proceed with the utmost possible circumspection, lest you should be entangled in an inextricable labyrinth. When you are called upon to penetrate into the inmost recesses of a man's soul, and decide on what passes there, with what awe will you address yourselves to the task?

Recollect what is required of you by the prosecutors. You are required to determine upon the inspection of this paper, that the defendant “ maliciously and seditiously contriving, devising, and intending to scandalize, traduce and vilify our lord the king, and the regal power and office established by law within this realm, and to represent our said lord the king as sanguinary, tyrannical, oppressive, cruel, and despotic; and thereby to stir up and excite discontents and seditions amongst the subjects of our said lord the king, and to alienate and withdraw the fidelity, affection, and allegiance of
“ his

“ his said majesty’s subjects from his said majesty’s person and government, unlawfully, maliciously and seditiously” did publish this pamphlet. Can you, as honest and conscientious men, can you, as men who have duties to fulfil, as men who have rights to guard, bring your minds to propositions so monstrous and so extravagant? But if this construction were not so evidently ridiculous and absurd, if it were only doubtful, and doubtful in the mind of any one of you, then you are bound to acquit the defendant. By that admirable institution, Trial by Jury, no man can be found guilty, but by the unanimous, the decided, and undoubting opinion of twelve of his equals. Where there exists a particle of doubt, it is your duty, as you have been frequently told from the bench, to lean to the side of mercy.

Gentlemen, Some cases have lately occurred which make it incumbent on me to say a word or two respecting the verdicts of Juries in cases of libel.

Whenever the exercise of a right has suffered interruption, its revival is attended with some inconveniences and some errors. That has been the case with respect to the functions of Juries in cases of libel. The ancient law of libel did not differ from other criminal law, but when the invention of printing had introduced political discussion, and when seditious publications (that is to say, publications exposing the corruptions and abuses of government and the profligacy of ministers) made their appearance the controul of the press was placed in admirable hands, a Licensor, the King’s Attorney-General, and a Court of Inquisition, called the Star Chamber. The Licensor was to stifle in its birth every thing obnoxious to the ministers. But if any thing happened to escape his hands, then the Attorney-General, by his information *ex officio*, carried the unfortunate author or publisher before the Board of Inquisitors, who never failed to administer a sentence, adapted by its severity, to deter others from similar efforts to enlighten the people.

It was in that infernal Inquisition, that the purity of the law of libel was debauched. It was there that that monstrous

monstrous maxim was first broached that *Truth* could be a false, scandalous, malicious, and seditious libel. Thank God, iniquity always defeats itself. The intolerable oppression of this Inquisition brought on its violent, I cannot say untimely death. But unfortunately some of its practices survived it. The Attorney-General was allowed still to carry his informations *ex officio* into the Court of King's-Bench, and the doctrines of the Star Chamber were after a very long interval revived, and continued in existence till within these two years, when they were, I trust, completely destroyed by that act of parliament, for which we are indebted to the bright ornament of the english bar, and the great model of its eloquence—an act which has assured and confirmed to every englishman the right of being tried by a jury of his equals, when accused of having written or published a libel.

Gentlemen, That act of parliament enacts, that a Jury may give a verdict “upon the whole matter put in issue by the indictment.” Of what does that “whole matter” consist? It proposes four questions to the consideration of the Jury.

The first question you are asked is, Did the defendant publish the pamphlet that has been produced in evidence? If he did not, you must acquit him.

Secondly, Is the sense ascribed to the passage, inserted in the indictment, by the innuendos, the true, the genuine, the necessary sense? If it is not, you must acquit him.

Thirdly, Is the pamphlet, even if that sense be the proper one, a “scandalous, malicious, inflammatory, and seditious” libel? If it is not, you must acquit him.

Fourthly and lastly, Did the defendant publish the pamphlet with the criminal motives and intentions imputed by this indictment? If he did not, even then you must acquit him.

Gentlemen, In saying this, I am sure I shall not be contradicted by the Bench, that a verdict of *Guilty* must be compounded of an answer to each of those four questions in the affirmative, and that if you disbelieve any one
of

of the imputations, nay if you doubt any one, you are bound to acquit the defendant.

It is the practice that had obtained before the passing of the Libel Bill, that has introduced any confusion into this plain and simple matter. Juries were directed by the Judges to find the defendant guilty, if the fact of publication was proved, and they believed the meaning assigned by the innuendos was correct, and thence Juries have erroneously thought, that if the fact of publication was proved, they were bound to find the defendant *Guilty of publishing*. Gentlemen, There is no guilt in publishing. Merely publishing a paper is in itself innocent. It is only the bad quality of the paper published, and the evil intention with which it is published, that can make a publication criminal. Therefore it is the duty of a Jury, unless they are clearly convinced, not only of the fact of publication, but of the truth of the innuendos, and of the paper being a libel, and of the intention of the defendant being criminal, to pronounce him *Not Guilty*.

Gentlemen, These prosecutions are totally unlike all other prosecutions that come before you. All those indictments that you have hitherto tried, were preferred for purposes of public justice, to vindicate offended law, and punish the violation of public order and private property. These prosecutions are always brought forward to answer the interested and temporary purpose of the party in possession of power; and if it should so happen that that party, before it had attained its power, had avowed principles to which their present practices are hostile, the publication of those principles is then deemed seditious, and the publishers are prosecuted. The prosecutions of the present day, are indeed part of the ways and means of carrying on this disastrous war. They were not opened by the minister with his budget, because they are means which he has not yet the courage to avow.

I understand that the reason why Mr. Eaton is singled out and prosecuted with such unexampled severity is, that he has committed that sin which is not to be forgiven. Convinced by Mr. Pitt's speeches and the Duke of Richmond's

mond's letters that the political salvation of this country depends on a Parliamentary Reform, he has frankly avowed that conviction. That has been caught up by one of these sedition hunters, who are hired to prow! about the streets, who dropped the information into the lion's mouth at the crown and anchor.

Gentlemen, We look back to the prosecutions for sedition in the reigns of the Stuarts with detestation and horror. Are we absolutely certain that our posterity will look back upon the prosecutions of the present day with very favourable sentiments? There was then the same cry of sedition, there was then the same pretence of conspiracies and plots, when all the time the sedition was the sedition of the ministers against the people, and the conspiracies and plots were theirs, to subvert the constitutional liberty of the country. Has this prodigious dread of sedition slept from the time of Charles the second until now, and is it to awake precisely at the present moment? Were libels so abundant then? Have they been so scarce from that time to this? and do they now suddenly abound again? No such thing. Publications reprobating tyranny and tyrants, and arraigning the conduct of ministers, have never failed to issue from the press. But it is not all ministers who have been troubled with the same irritability of temper, or been haunted with the same dread of a free discussion of their merits and demerits. It is a bad omen when ministers wish to stop the current of free inquiry. It is a sure sign that their conduct is such as will not stand the test of that inquiry. There have been ministers of this country who have thought a free press their best safeguard, who have feared no libels, because their conduct challenged investigation, and would pass the fiery ordeal with honour. If this is no longer the case, if the ministers of the present day dread the consequence of a rigid examination and comparison of their professions and their actions, if they wish to shut out the sun because they cannot bear the light, let them be open and honest, let them avow their meaning, let them speak out, let them not, because the great pillar that supports the British Constitution is hateful

to them, seek upon false pretences to level the glorious fabric with the dust.

But I am sure the lofty and intrepid spirit of Britons is not to be subdued by any such means. I am sure the means are very ill adapted to the end. Never yet was the frequency of political publications lessened by prosecution, but on the contrary they have always been increased ten-fold. If the ministers wish to extract the sting from these publications, they should adopt a system exactly the reverse of that which has provoked them. Let them not cherish every canker that has crept into the constitution, which mars its beauty, and is eating out its vitals. Let them not cling to every corruption and every abuse, as if corruption and abuse were the end and perfection of government. Let them not pursue those measures which induce the necessity of increasing that heavy load of taxes which extorts from the poor the scanty subsistence that their labour can procure. Above all, let them not pursue those measures which deprive the industrious poor of those very means of subsistence, and throw them upon the benevolence of a generous public for their very bread. If they will avoid splitting upon these rocks, they will disarm political publications of every thing offensive, and we shall then hear no more of the prevalence of libels.

But allow me to inquire, why prosecutions are all on one side, why it is that those pamphlets only are prosecuted as libels which reflect, or are supposed to reflect upon the regal or aristocratical branch of the constitution. Does it not hence appear that to prosecute libels upon the *constitution* is no part of the system of administration? For if a man will but exalt the regal and aristocratical parts of the constitution at the expence of the democratical part, he may libel the constitution with impunity. The democratical part of the constitution is not a favourite sufficient, at present, with those who have the management of affairs, to induce them to stand forward as its avengers.

THE "MAJESTY OF THE PUBLIC"—(Gentlemen,
I am not using an expression coined by the republicans
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and levellers of the day, if any such there be; I am using the expression of that great lawyer, Mr. Justice Blackstone, whose authority is constantly appealed to on these occasions by the Counsel for the Crown)—“THE MAJESTY OF THE PUBLIC” may be libelled. “The Majesty of the Public” has no Attorney-General to file informations *ex officio* against the libeller. The sacred rights of the people may be insulted, degraded, and vilified, and no prosecution is thought of. Yet let but a sarcasm be thought to fall on the power and authority of kings or nobles, and ministerial vengeance is instantly hurled at the head of the unfortunate offender.

Gentlemen, Are such prosecutions as these for calling tyranny by its name, intended to spread that torpor over the mind which is requisite to its introduction? Are they designed “to stop the current of all the passions but fear?”—Let us then resolve rather to cease to live than live in chains.

View in ancient history the glorious effects of freedom. See the heroic actions it inspired. See the consequences in the perfection of every art and science that could confer dignity on man, or contribute to his comfort. Observe the dreadful contrast that is now exhibited by those countries which have lost it. Where you saw blooming fields, stately edifices, commercial cities, you now see a desert. Where you saw a people, adorned by every manly and social excellence, whose examples we to this day hold up to our youth as objects of admiration and imitation, you now see a degenerate race of beings, possessing the form indeed, but devoid of the principles and feelings of men.

To what is it we owe the unexampled elevation which we have attained, but that transcendent freedom which has made us the envy and admiration of the world? What is it that enables North-America to proceed with such gigantic strides to a state of prosperity at which Europe will soon gaze with wonder and astonishment, but the invincible energies of freedom? What is it that renders South-America such a dreadful reverse of that happy state, but the ignorance and consequent slavery in which the people are held by their unfeeling tyrants?

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To attack the freedom of the press, and I conceive it is attacked most violently by this prosecution, is to aim a fatal stroke at liberty itself. And is it now at the close of the eighteenth century, in an age which boasts of being the most enlightened the world ever saw, that liberty is to be proscribed in its most favoured residence? No, Gentlemen, so long as we preserve those bulwarks of our constitution the LIBERTY OF THE PRESS, and TRIAL BY JURY, and *Juries preserve their independence*, I am sure all the efforts of tyranny to obtain a footing in this island will prove abortive.

Gentlemen, This is not vain and empty declamation. The existence of every right we possess depends in the first instance upon the freedom of the press. While we possess that unimpaired, we can never be enslaved. If we lose it we cannot be free. While the press, which has been beautifully and emphatically styled "the eye of the political body," continues to inspect and watch with diligence the administration of public affairs, some hope remains that those affairs may be administered with some attention to the public interest. But if it is destroyed, or constantly harassed in the performance of its necessary functions, we may abandon ourselves to despondency and despair.

Gentlemen, If you find the defendant guilty, consider what you determine, under the awful sanction of an attestation of the Supreme Being. You swear to the truth of every word and syllable in this indictment. You swear that by this game cock, this haughty and sanguinary tyrant, nursed from his infancy in blood and slaughter, is meant the king of Great-Britain, and no other. You swear too that that king is a tyrant (for so the indictment charges him to be). You swear that an observation on kings in general must necessarily include him. Besides that, you not only swear that you so understand all this, but that so did the defendant mean.

Can you lay your hands upon your hearts, and swear all this? Can you lie down upon your pillows without feeling thorns in the reflection, that that man who has

already been imprisoned near three months upon this indictment, is to be imprisoned two or three years longer, and his wife and children reduced to beggary and want, because you have fancied that a sense *prima facie* so foreign, may possibly belong to this paper?

Why is it, that that institution, Trial by Jury, has challenged such universal admiration? Because men are called upon to try others by the same law by which they may themselves be tried, and therefore it is concluded that no man would be so mad or so wicked as to wrest the law either for acquittal or conviction; because in the former case he would suffer as a member of that political Society which cannot exist if its laws are not enforced; in the latter case he would be exposed to the hazard of suffering as an individual; and becoming the victim of his own guilt.

Where that man stands to-day, you yourselves may stand to-morrow. For there is not a word you utter which may not be tortured into sedition, with as much reason as the paper now under your consideration.

In pronouncing your verdict upon this case, you will recollect that ever applicable precept of the great author of our religion,—“Do unto others as you would wish them to do unto you.” Sitting in the judgment seat, you will mete out to the defendant the same measure of justice which you would think he ought to mete out to you, were you in his situation and he in yours. If you were standing at that bar, accused of having uttered general expressions, prompted by the generous feelings of your hearts, in detestation of tyranny and tyrants, to which the despotic ingenuity of a Special Pleader had affixed a seditious meaning by such innuendos as appear upon this indictment, would you not claim as a first principle of justice that your words should be taken in the most favourable sense, and not be perverted from their primary meaning, for the purpose of incarcerating you in that strong mansion? I am sure you would, and therefore I claim the same justice for the defendant. I claim it of you, because the verdict must be yours, and yours alone,

alone, as you will answer it to your Country, to your Consciences and your God.

Gentlemen, I have endeavoured to discharge my duty. I fear I have done it feebly and imperfectly. You will nevertheless do yours, and I am confident you will add to the number of shining instances we have lately witnessed, that an innocent individual is never more safe than when his conduct is submitted to the enlightened and impartial judgment of an English Jury.

MR. RECORDER.

GENTLEMEN OF THE JURY,

THIS is an Indictment against Daniel Isaac Eaton, who is charged with having published this Libel.—It cannot be necessary for me to state the charge, you have heard it opened by the learned Counsel for the prosecution, and you have afterwards heard those parts which are offensive, and which charge sedition upon the Prisoner, particularly stated and read to you. The pamphlet has been produced, and it will be put into your hands, therefore it would be a mere waste of time for me to run over the words of the charge, I shall take for granted that you are perfectly masters of them; and being so, the first part of my duty I conceive to be to state to you what is the evidence in support of this prosecution; and when I have done that, I shall state more particularly what I conceive to be the gist of the crime.

To prove the publication, they only call one witness;—he says he bought it at the shop which is kept by the Defendant, in Bishopsgate-Street, on the 18th of November;—it is Number 8.—Upon the cross-examination, he says, he is not an Informer, but a man who lives by carrying about Newspapers. This is the whole evidence of the publication.

Before

Before I state to you the question of publication, for of that you must be satisfied upon the evidence, I will state what I conceive to be particularly the nature of the crime, the nature of the sedition, imputed to the Prisoner. —It is, as charged in the Indictment, that of villifying and traducing the King and the regal office, as established by law.

Now as to the first, traducing the King, the last count in the Indictment seems to apply particularly to that; the part I allude to is this:—"Kings are Wolf Shepherds;—Homer stiles them devourers of the people; and they do not appear to have lost their original taste."

Now Gentlemen, as to this part of the question, by the Constitution of this Country, and by the settled Law of this Country, to write any thing positively and decidedly disrespectful, to vilify or traduce, to render ignoble, or disgrace in the eyes of the people, who are governed, the first branch of the Legislature, the King, is by the Law of the Land an offence, and this is the offence imputed to the Prisoner. The sort of sedition imputed to him is, that he endeavoured thereby to weaken the hands of Government.

You know very well, Gentlemen, that this Constitution is formed of King, Lords, and Commons; and it is very necessary, the Law has considered it such, and wisdom and policy require that it should be so, that every branch of the Legislature should be held in equal respect. I have no doubt to state to you, that in a state of civil society, where there exists a Government, there must be superiority and inferiority; it is for the advantage and the good of the whole that it should exist; and it is for that reason that the Constitution and the Law of this Country have fortified and given a particular and strong protection to the character which commands as the Chief Magistrate, and controuls those who are governed in this country. I do not enlarge upon this subject, because I am sure the learned Advocate for the Defendant cannot controvert this;—that being so, you will be to judge whether, upon the reading this pamphlet, which you

ought to read, in my opinion, with your minds not at all heated either with the address of the Counsel on the part of the prosecution, or with the address of the Counsel on the part of the Defendant, but you should read the book precisely in the way as if you had it in your own private chamber, and wished to make yourselves completely masters of the whole subject; see what the impression on your minds is then, and see whether a person using the language which is used in this second Count, does or does not mean to vilify and traduce that branch of the Constitution which the Defendant is charged with doing in the Indictment.

You are not only to read the passages charged to be libellous, but to read the whole pamphlet; and if upon reading the whole, you can apply this to any thing but the Government of this Country, and that branch of it named—to be sure it does not impute any thing to the Defendant.

An observation occurred to the Counsel for the Defendant which he urged with great ingenuity; he thought it his duty to state to you that this has so general an application that it is not to be applied to the Government of this Country.—Now you should read a pamphlet of this sort, charged to be a Libel, with exactly the same indifference as you would any other book,—then see how you are to apply that language in the way it is here stated.—“The reflections of a True Briton. Kings are Wolf Shepherds,” and so on.—Whether you would not apply that to all Kings?

The learned Counsel has told you that the word “ALL” should have been used for you to have put that construction upon it;—now that is entirely a matter of fact upon which you are to decide; but the observation really strikes me the other way; because it strikes me that if a person uses the general term in that way, and makes no exception, that it is applicable to all persons of that description. It appears therefore to me, and you will judge of that, reading this with the whole of the pamphlet, whether you do not consider this as a direct attack upon one branch of
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the Legislature, and that the person who wrote this (I shall come to the publisher by and by,) did not thereby mean to say that Kings, this description of people, were devourers of the people, and so on;—whether being in that general way, it is not in the common construction of language to be applied to the Government of this Country? If you think it is, then it is by the Law of the Land indisputably a Libel; and how far the Prisoner may be answerable for it, it is for you to consider. I shall make one more observation to you upon this part of the case, that it is your duty certainly to read the whole pamphlet, because the innuendos, the sense that is imputed to the person who writes this book, is entirely to be decided by you. So much for that part of the case which imputes sedition to the Government of this Country.

It appears to me that sedition is imputed in another way, and that is upon the personal executive power, upon the King himself. This Indictment charges the author of this pamphlet with charging the King of England, among others, with being a tyrant; and after stating that such a tyrant is guilty of oppression by taxation, and so on, he seems to intimate pretty broadly as his opinion, that such a person should suffer death by the guillotine.— And he says afterwards, describing all this by the figure of a Cock, that such a person, when his trappings were stripped off, was found to be rank with the pollution of his luxurious vices, and so on. The second count only makes a part of the same charge; it will be for you to consider, reading the book in an indifferent manner; for there is no evidence given in explanation of the book one way or other; you have nothing but the speeches of the learned Counsel upon it. As to what passes in the world, you are competent and fair judges. Then reading this book, called Politics for the People, and the Reflections of a True Briton, and so on, considering the time when it is published, you will be to decide upon all the observations you have heard on both sides, whether this is fairly or not imputable, as it is charged in this Indictment, to the King of this country, and whether the author who wrote it meant to apply it to the King of this country.

With

With respect to innuendoes, it must be a fact, always for a Jury to decide what is the sense and meaning of a Libel; for a man in the highest extravagance of compliment, beyond a doubt may write such a pamphlet as shall be a gross Libel. A man may use such language, as in the plain terms of it at first may appear to be no Libel; but yet, perhaps, by looking into some other expression, or taking the intention of the party in the whole of the book, it will be impossible not to see, that though he uses language that is ironical, yet that you perfectly understand, he means exactly the reverse of what he says; and if from the whole of the work you can collect, and think yourselves bound to collect, reading it fairly, that such was the intention of the party, that will be a Libel.

Gentlemen, It is in matters of sedition as it is in other crimes. Few men are bold and hardy enough to use language of such sort as will subject them to very severe penalties, without some sort of cover. God forbid that I should (for it is not my province) impute that to the Defendant upon the present occasion; but it is my duty to state to you, that if a pamphlet is written in that way, you have a right to take off the mask, if you think it is a mask; and it is your duty, reading it with indifference and with temper, to see what the intention is, whatever the veil may be, whatever the cover may be, whether it is under an ape, or whether it is by allegory, or a figure; whatever colour or complexion the book may take, it is intirely for you to decide what is the fair meaning of that book, and what is the sense in which the author wrote it.

Gentlemen; you see here is a figurative description of a Cock, and so on; and this is imputed by the Indictment to apply to the Sovereign of this country, and to impute to him taxation, and other things, as oppression; and that he ought to be taken off by the guillotine.— Upon the observations made on both sides of the question, and considering that the book is entitled “Politics for the People,” and “The Reflections of a True Briton,” you will be to judge whether that is fairly imputable to

the Sovereign of this country; if it is not, certainly it is not a Libel; if it is, on the other hand, it is indisputably a Libel, and you will find the Defendant guilty of that count.

Gentlemen; you have heard a great many observations in this case respecting the Liberty of the Press. I am sure I think it my duty to state, that the Liberty of the Press is the greatest blessing this country can enjoy; but on the other hand I must state to you, that the Licentiousness of the Press is the greatest curse. And I am sure your good sense will teach you this, that if men are permitted to say any thing, they will very soon go the length of *doing* any thing; and where that is the situation of affairs in any country, there is an end of all government; and therefore you must judge in a case of this sort of the sense of the Libel, of the intention of the party, and your decision on this Indictment one way or other will not, in my opinion, affect that question which has been stated to you of the Liberty of the Press.

This, you see, is not charged to be a Libel upon Ministers, but it is a direct charge, in one part of it, upon one branch of the Government, and in another part of it in an oppressive exercise of the duties of that branch of the Government; and therefore if it fairly applies to the King of this country, it seems to me very difficult for any Jury to say, that a person who writes a book with an intention to make a direct attack upon the Government, or to charge the Executive Government of this country with oppression, it seems very difficult to say that that comes within the Liberty of the Press. I conceive the Law to be completely otherwise, and that the Executive Government of the country is protected by the Law, that every individual is protected from such an attack, and the Executive Government of a country, the first Magistrate, a character that stands so high, must necessarily be so protected; therefore it comes, and always must come to the question, whether a direct offensive attack is made upon that Government.

If you shall be of opinion that this is not written in a mere speculative way, but that it is written with the intention charged in the Indictment, to render contemptible that character, and to charge that character with oppression, it seems to me that this is no question of speculation which involves the Liberty of the Press, but it seems to be that sort of question which gives the go-by to it; and that you must be decided intirely in your opinion upon the evidence which is before you.

Gentlemen, much has been said about the cheapness of the Libel; that is out of the question; if you should be satisfied upon the whole that it is a Libel applied to the Government of this country, it must be certainly an aggravation of the offence, but that cannot decide the question of Libel one way or the other. But then there is another question for your consideration, and that is the intention of the party. Now you will observe the person before you is the publisher, and not the author of the Libel; but as to the question of the sedition in the Libel, that must first be disposed of; and it is my duty to state to you, that if you should think this applicable to the Government of this country, that then the publisher of it, if it is a Libel, is answerable for the consequences of that publication; and it will be very difficult, in my opinion, for you to say, when once the fact is settled, that the work is libellous, that the person who sends into the world that sort of publication to disturb the peace of the country, could do it with any very good intention.

The learned Counsel for the Defendant has told you, that since the Act of Parliament has taken place, this is to be decided in the same way as any other crime, and he has thought fit to put the crime of murder as the example. Now taking that as the example, how would it be? Suppose a man commits a murder with a very offensive weapon, I take it to be clear and settled law that his evil intent will thereby be presumed; and if the Law in the case where a murder is committed with a very offensive weapon, would presume that the party using it had an intention to do the mischief, I should think if a man sends poison into the world that may do a great deal

of mischief, that a Jury would not go any great length in presuming upon the evidence, unless he could, on his part, shew some evidence to get rid of the presumption, that he was influenced by that criminal intention which the Law presumes, in that case, as it does in the case of Libel.

It will be for you, therefore, first to make up your minds upon this pamphlet, whether it does apply to the King and the Government of this country; and if it does, then the next question for you to consider is, whether the Prisoner is the publisher of it; now as to that, he certainly is answerable in Law as the publisher, if it is sold in his shop. There has been nothing proved on the part of the Prisoner to shew that he is not at all responsible for it; and unless he disproves the fact of publication, it is a publication for which he is bound to answer; and as to his intention, I shall certainly leave it to you to determine upon the case stated by the Counsel, if you are satisfied that this is a libellous work, and if you are satisfied that these innuendos are proper innuendos, and fairly made out, whether you can think a man publishing such a pamphlet as this charged to have, and having in your opinion a seditious tendency, does it with such an innocent intention as the Law will support.

There is one more observation that has been made by the Counsel for the Defendant.—You have heard a good deal about the Star Chamber, and so on; now I think it is but fair to say that this has been brought before you by a Grand Jury. God forbid that you should decide the question against the Prisoner because a Grand Jury has found the Bill; but so far as concerns the Attorney General, it is on the part of the public certainly the mildest method of proceeding, because it is giving the Prisoner the most favourable opportunity of being tried by his equals. I cannot, therefore, conceive that this prosecution can in any way be considered to look at all like any of those prosecutions of which we have heard so much, because I think all that is done away by the manner in which the present Attorney General has thought fit to prosecute this man.

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There was another observation made by the Counsel for the Defendant, respecting the taxes and administration, and so on. I can only say that I think that observation was a little unfortunate, because the whole of the defence seemed to me upon this occasion, to turn upon this; and it is the strongest part of the argument which has been put by the Counsel for the Defendant, that these innuendos, applying these passages to the King and Government of this Country, are not fairly applied. Now it seems to me in such a defence as that, rather an awkward circumstance; and it looks as if the mind, in reading this pamphlet, could not but feel that it is meant to convey sentiments unfavourable to the Government of this Country; and what strengthens that opinion is, that in the subsequent part something further is stated respecting those taxes mentioned in this very Libel.

You have had another observation made with respect to the state of this man's family; now as all that is to be considered as an attack upon your passions, either on one side or the other, you have too much good sense to attend to it. You are to consider the situation of the country at large, the good government of the country on one hand, and the situation of the Defendant on the other, and I have no doubt that you will do justice between them both, and that you will not be hurried away by the idea of a family, or any thing of that sort, which in a criminal case can make no consideration at all. All that the prosecutor can ask of you, and all that I can ask of you, is this, to read this book as you would read it if you wanted to make yourselves masters of it in your own private chambers, see what the impression is on your minds, and if you think these innuendos are fairly made out, as applied to this pamphlet, they certainly charge the Defendant with publishing a seditious Libel. You will judge of the whole; if you think him guilty you will find him so; if you think this is not made out to be applicable to the King and Government of this Country, you will then acquit him.

MR. GURNEY. I beg the Jury may take out with them a Copy of the Indictment as well as the Pamphlet,
MR,

MR. FIELDING. Your Lordship will decide upon that.

MR. GURNEY. Upon the trial of this Defendant at Guildhall, Lord Kenyon expressly desired the Jury to take with them a Copy of the Information.

FOREMAN OF THE JURY. We beg we may have a Copy of the Indictment.

MR. FIELDING. Certainly Gentlemen you shall.

The Jury retired, taking with them the Pamphlet and a Copy of the Indictment; in about an hour they returned with a Verdict of

NOT GUILTY.



Mr. Gurney. I beg the Jury may take out with them a Copy of the Indictment as well as the Pamphlet.